

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAY ZIMMERMAN,)	
)	
Plaintiff,)	Civil Action No. 1:20-218
)	
v.)	Judge Cathy Bissoon
)	
C.R. BARD, INC., <i>et al.</i> ,)	
)	
Defendants.)	

ORDER OF REMAND

Pursuant to Federal Rule of Civil Procedure 21 and 28 U.S.C § 1407(a), Plaintiff's claims against Defendants MEDICAL ASSOCIATES OF ERIE, JAY J. KIESSLING, M.D. and RODOLFO ARREOLA, M.D. ("Medical Defendants") have been separated from Case No. 2:20-cv-04377 (S.D. Ohio) and MDL No. 2846, and remanded to this, the transferor court, by the United States Judicial Panel on Multidistrict Litigation. *See* Doc. 9 (Conditional Transfer Order). The Complaint, which was removed from the Court of Common Pleas of Erie County by the now-severed products liability Defendants on August 5, 2020 (Doc. 1, Ex. 1), asserts only state law claims against the Medical Defendants. Additionally, the Complaint asserts that Plaintiff and each of the Medical Defendants are citizens of Pennsylvania.

Accordingly, on September 15, 2023, the Court ordered the parties to show cause, by September 29, 2023, why Plaintiff's claims against the Medical Defendants should not be remanded to state court for lack of subject-matter jurisdiction. (Doc. 10). On September 28, 2023, Plaintiff filed a Response to the Order to Show Cause (Doc. 11), agreeing that diversity of

citizenship is lacking among the parties because Plaintiff (and Plaintiff's estate)¹ and each Medical Defendant are citizens of the Commonwealth of Pennsylvania. *See* Doc. 11 ¶ 11 (citing Complaint ¶¶ 1, 16-18). Although the Medical Defendants have not entered an appearance in this case, Plaintiff's Response to the Order to Show Cause certifies that a copy of that Response was served on counsel for the Medical Defendants. The Medical Defendants did not file a position as to the Order to Show Cause.

Because there is no dispute that diversity of citizenship between Plaintiff and the Medical Defendants is lacking, this case is **REMANDED FORTHWITH** to the Court of Common Pleas of Erie County, Pennsylvania (Docket No. 10863-2020).

IT IS SO ORDERED.

October 5, 2023

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record

¹ Plaintiff's Response indicates that, prior to the transfer back to this Court, the District Court for the Southern District of Ohio substituted Robin M. Vascovich, Administratrix of the Estate of Ray Zimmerman, as Plaintiff in this case, due to the passing of Mr. Zimmerman. (Doc. 11 at 1 & n.1). This substitution does not change the diversity analysis because "[t]he legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent..." 28 U.S.C. § 1332(c)(2).